

**CITY OF WEST DES MOINES
BOARD OF ADJUSTMENT COMMUNICATION**

Meeting Date: January 15, 2014

Item: 1600 Valley West Drive Outlot, 1600 Valley West Drive – Approval of 33 ft. variance of the required 100 foot front setback along Westown Place to construct a building – VAR-001986-2013/VAR-2013-006

Requested Action: Approval of a Variance Request

Case Advisor: Kara Tragesser, MPA, AICP *Kara*

Applicant's Request: The applicant, Stanbrough Realty, Inc., represented by Josh Trygstad of Civil Design Advantage, is requesting a 33.00 foot variance of the required 100 foot front yard building setback from the ultimate right-of-way line of Westown Place to allow for the construction of a new 5,500 sq. ft. building. The new building is proposed to be constructed in front of the building housing Goodwill and Monkey Joe's (see Attachment B – Location Map and Attachment C – Variance Request and Site Plan).

History: This site was approved with a site plan for a shopping center (Service Merchandise) in 1979. The site is adjacent to the Hy-Vee grocery store site immediately to the north. The building on the property currently is occupied by Goodwill (resale store) and Monkey Joe's (entertainment). On January 23, 2013, the Board of Adjustment approved a variance of the front yard setback along Westown Place of 70 feet for the addition of a canopy for the drive-thru area for Goodwill.

On November 27, 2013, the applicant requested a variance of the front yard setback along Westown Place of 40 feet. Staff recommended that the Board deny this request based upon the mistaken belief that variances run with the land and that such a variance would render the existing building non-conforming. It was also mistakenly believed that the previous Board action granting a variance for the Goodwill canopy rendered this request unnecessary.

However, staff since has found that variances are granted on a project basis and do not run with the land. Staff contacted the applicant to explain this provision in the code and requested the applicant resubmit a request for a variance.

City Council Subcommittee: This item was not presented to any council subcommittee due to time constraints with the subcommittee's schedule. Projects for consideration by the Board of Adjustment generally are presented to the subcommittee for information only; no recommendation or communication from the subcommittee is needed.

Staff Review and Comment: This request was distributed to other City departments and other agencies for their review and comment. The applicant is requesting these variances as part of their decision making process on whether to construct a building. Staff has the following comments:

- In 1979, when the site plan was being reviewed and eventually approved, Westown Place on the south side of the site was a private street and the property line for this property was within the private street area. The existing building was approximately 102 ft. from that property line. During review of that site plan, the City requested that 30 feet along the south property line be deeded to the City for Westown Place. There is no indication that the building setback was varied at that time or that the building was moved to accommodate a 100 ft. front yard setback from the new property boundary.

At that time, the property was zoned C-1-A Commercial Plaza District which required a 100 foot front yard building setback, but allowed for a zero side yard setback. Staff speculates that no setback may have been required from Westown Place when it was a private drive, given the location of the commercial building (built in 1973) on the south side of Westown Place was constructed at an approximately 8 foot setback.

- With the approval by the Board of Adjustment of the permitted conditional use permit for Monkey Joe's, which is located in the 1600 Valley West Drive building, the City further requested by irrevocable offer of dedication an additional 7.66 ft. of property for right-of-way purposes on Westown Place. No variance was

warranted as a result of this dedication since no outside structural improvements to the site were proposed or required to accommodate the Monkey Joe's use within the building. At that point, the building was and is setback from the street frontage on the south about 67 feet.

- Staff feels that the variance on the south side front yard setback along Westown Place does not do further harm to the intents of the setback regulations in that the bulk of the proposed building is no closer to Westown Place than the Goodwill building. Also, in consideration of what Staff surmises was the circumstances at the time that the commercial building on the south side of the street and the subject building were constructed, namely that Westown Place was a private street (therefore did not meet the front yard definition and requirements as if it was a public street), the properties were zoned the same, and that the zoning allowed a zero setback of side yards for similarly zoned property, staff feels that the declaration of Westown Parkway as a public street and application of today's setback standards, that the subject property suffers unduly from those changes.

Staff supports the applicant's request for a variance of the front yard setback along Westown Place for the following reasons:

- The proposed building will be no closer to Westown Place than the building at 1600 Valley West Drive (Goodwill)
- The additional right-of-way that the City will request is a condition imposed by the City and is not self-imposed hardships by the property owner.
- The variance will apply only to a building which is shown in Attachment C, as variances are provided for projects and do not run with the land.

Variance Findings: Title II of the City Codes discusses the variance procedure. All five (5) conditions must be met in order to grant a variance. Based upon a review of the submitted variance request, staff has made the following findings on the proposed project:

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan. *The proposed development is consistent with the comprehensive plan. Specifically, Goal 1, Policy 1.1 which states that the City shall continue to institute programs, standards, and policies that work towards bringing blighted, deteriorated, and/or non-conforming or sub-standard properties into compliance; Policy 1.2 which states that the City should enter into partnerships with private and public organizations to effectuate the development and revitalization of the City; Goal 3, Policy 3.2 which states, in part, that the City shall encourage the retention and expansion of existing businesses, Policy 3.7 which states that the City should encourage the revitalization and redevelopment of obsolete or declining commercial or industrial areas.*
2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones. *The size of the property has been adversely affected by the establishment of public right-of-way for Westown Place and by subsequent City action taking additional property for right-of-way.*
3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest. *The strict application of the zoning regulations as they apply will present practical difficulties in constructing any building on the property. A practical difficulty with not being allowed to match the setback of the front façade along Westown Place with the Goodwill building is also an unnecessary hardship, not self-imposed.*
4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment. *Staff does not believe that the site or its surroundings will detrimentally affect the environment.*
5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements. *The variance does not affect the health, safety, or welfare of the public. The granting of this variance request is not injurious to nearby property or improvements.*

Staff Recommendations and Conditions of Approval: Based upon the following review, a finding of consistency with the goals and policies of the Comprehensive Plan and compliance with the findings necessary for approval, staff recommends the Board of Adjustment adopt a resolution for approval of a Variance Request to vary the front yard setback from 100 feet to 67 feet, a variance of 33 feet for the proposed 5,500 sq. ft. proposed to be constructed in front of the Goodwill store at 1600 Valley West Drive, subject to meeting all City Code requirements.

Noticing Information: On December 28, 2013, notice of the January 15, 2014, Board of Adjustment Public Hearing on this project was published in the Des Moines Register. Notice of this public hearing also was mailed to all surrounding property owners within 370 feet of the subject property on December 26, 2013.

Applicant: Stanbrough Realty
10888 Hickman Road, Ste 3B
Clive IA 50325
515-334-3345
Jeff Stanbrough
jeff@stanbrough.com

Property Owner: Christine A. Drake
10888 Hickman Road Ste 3B
Clive IA 50325
515-208-3739
Christydrake@iowarealty.com

SITE DETAILS

Comprehensive Plan: Regional Commercial
Existing Zoning: Regional Commercial
Existing Land Use: Retail building (currently vacant – formerly Steinmart)

Surrounding Land Uses:

North **Existing Land Use:** Monkey Joes/Hy-Vee grocery store
 Existing Zoning: Regional Commercial
 Comprehensive Plan Designation: Regional Commercial

East **Existing Land Use:** Valley West Mall
 Existing Zoning: Regional Commercial
 Comprehensive Plan Designation: Regional Commercial

South **Existing Land Use:** Valley West Inn
 Existing Zoning: Regional Commercial
 Comprehensive Plan Designation: Regional Commercial

West **Existing Land Use:** Multi-Tenant Office Buildings
 Existing Zoning: Professional Commerce Park
 Comprehensive Plan Designation: Office

Total Land Area: 3.685 acres (160,519 sq. ft.)

Attachments:

Attachment A	-	Resolution
Attachment B	-	Location Map
Attachment C	-	Variance Request

Prepared by: K.Tragesser, Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

RESOLUTION

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING THE VARIANCE REQUEST (VAR-001986-2013/VAR-2013-009) TO VARY THE FRONT YARD SETBACK FROM 100 FEET TO 67 FEET TO ALLOW THE CONSTRUCTION OF A 5,500 SQ. FT. BUILDING IN FRONT OF 1600 VALLEY WEST DRIVE

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Stanbrough Realty, Inc., has requested approval of variance from Chapter 9, Section 7-4, Minimum Setbacks, for construction of a 5,500 sq. ft. building at 1600 Valley West Drive;

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on January 15, 2014, the Board of Adjustment held a duly-noticed public hearing to consider the application for a variance;

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report or as amended orally at the Board of Adjustment hearing of , including any conditions of approval in Exhibit B are adopted.

SECTION 2. The variance of the front yard setback of 33 feet is hereby granted.

PASSED AND ADOPTED on January 15, 2014.

Jennifer Drake, Chairperson
Board of Adjustment

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on January 15, 2014, by the following vote:

AYES:

NAYS:

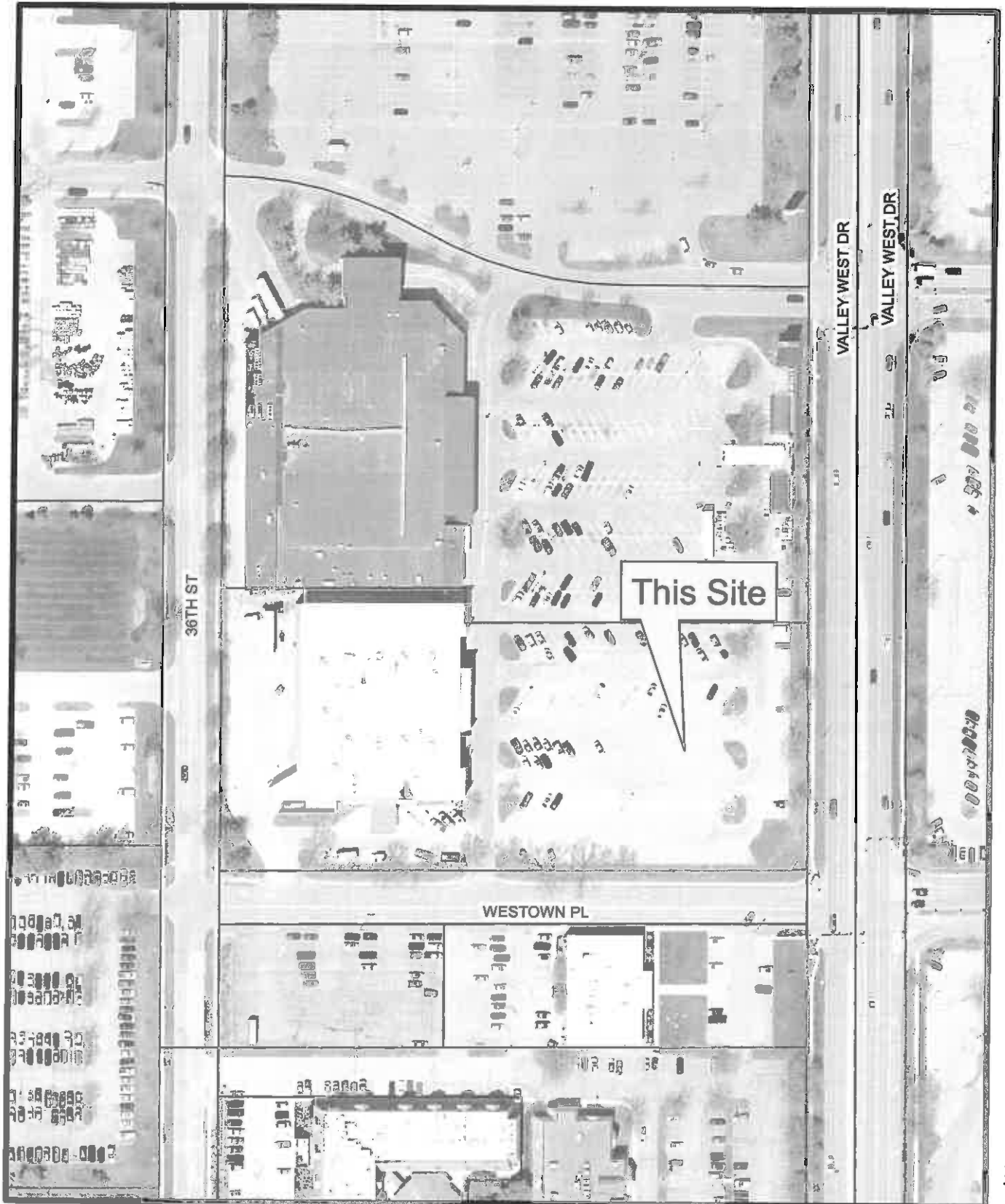
ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

Exhibit B
Location Map
1600 Valley West Drive





CIVIL DESIGN ADVANTAGE L.L.C.

ENGINEERS, LANDSCAPE ARCHITECTS,
PLANNERS & SURVEYORS

December 19, 2013

RECEIVED
CITY OF WDM

DEC 20 2013

DEVELOPMENT
SERVICES

Attn: Kara Tragesser, Planner
Community Development Department
City of West Des Moines
4200 Mills Civic Parkway
West Des Moines, Iowa 50265-0320

RE: **Variance Application**
1600 Valley West Drive Outlot
CDA 1311.451

Dear Ms. Tragesser:

On behalf of Stanbrough Realty, Inc., we submit herewith this Variance Application for 1600 Valley West Drive in West Des Moines. We are requesting a variance for a new 5,500 square foot commercial building encroaching ± 33 feet into the 100 foot building along Westown Place. The new building location was placed on the site to provide approximately the same setback from Westown Place as the existing building.

We look forward to your review. Please contact me with any questions.

Sincerely,

CIVIL DESIGN ADVANTAGE, LLC

Josh Trygstad, P.E.
Project Manager

Enclosures

Copy: Jeff Stanbrough, Stanbrough Realty (w/enclosures)
Clark Snyder, Simonson & Associates Architects (w/enclosures)

4027-DNA (c1)